

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Objector.

Class counsel and Kellogg ask us for the impossible—a verdict before the trial. They essentially say, “Just trust us. Uphold the settlement now, and

1 we'll tell you what it is later." But that is not how appellate review works.
2 The settlement provides no assurance that the charities . . . will bear any
3 nexus to the plaintiff class or to their false advertising claims and therefore
4 violates our well-established standards governing *cy pres* awards. Moreover,
5 the true value of the product *cy pres* initiative has yet to be determined,
6 making it impossible to assess, and thus evaluate, the true value of the
7 common fund.

8 *Dennis v. Kellogg*, Nos. 11-55674, 11-55706 (9th Cir. Sept. 4, 2012).

9 Respectfully Submitted,

10 **DATED: September 11, 2012**

11 By: /s/ Paul R. Hansmeier

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on **September 11, 2012**, all individuals of record who are deemed to have consented to electronic service are being served a true and correct copy of the foregoing document using the Court's ECF system.

/s/ Paul R. Hansmeier